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### CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

In Re: Patent Application of Charles A. Eldering

Conf. No.: 8089 : Group Art Unit: 2623  
Appln. No.: 09/742,852 : Examiner: James R. Sheleheda  
Filing Date: 21 December 2000 : Attorney Docket No.: T721-19  
Title: System for rescheduling and inserting advertisements

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1. Response to Notice of Non-Compliant Appeal Brief (5 pgs.)

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Date: April 25, 2007By: Patti Hespell  
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In Re: Patent Application of Charles A. Eldering.

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RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEFUNDER 37 C.F.R. §41.37(d)

In response to the Notice of Non-Compliant Appeal Brief, dated March 26, 2007, and further to the Appeal Brief filed January 19, 2007, please amend Applicant's Appeal Brief in the above-identified application as follows:

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**APPEAL BRIEF REPLACEMENT SECTION**

Please replace Section (E) of the Appeal Brief ("Summary of Claimed Subject Matter"), with the following Replacement Section, in accordance with MPEP § 1205.03:

**--(E) SUMMARY OF CLAIMED SUBJECT MATTER**

With respect to independent claim 4, the claimed subject matter relates to a subscriber system for inserting unscheduled advertisements into at least one channel of media signals (see, for example, Figs. 1 and 2, and page 4, line 1 – page 5, line 15, of the specification). An ad insertion device 304 is configured to determine an order, or queue, in which the unscheduled advertisements are to be inserted into the channel (see, for example, Figs. 2 and 3, and page 9, lines 15 – 21; page 17, line 23 – page 19, line 10; and page 29, lines 10 – 23, of the specification) and to insert the unscheduled advertisements into the channel according to the order (see, for example, page 10, lines 13 – 16; page 11, lines 9 – 19; page 13, lines 13 – 17; page 17, lines 15 – 22; and page 19, lines 11 – 20 of the specification). A watchdog module 320 is configured to detect changes in viewing parameters, including program content currently being displayed on the channel (see, for example, page 9, line 22 – page 10, line 5; page 16, lines 6 – 8; page 19, line 4 – page 21, line 5; and page 21, line 22 – page 23, line 4 of the specification). The results of the detection are output to the ad insertion device, such that the queue is reordered according to program content displayed as a result of the detected change in viewing parameters (see, for example, page 10, lines 13 – 24; page 19, lines 4 – 20; page 20, lines 4 – 13; page 21, line 22 – page 23, line 4; and page 29, lines 10 – 23, of the specification).

Independent claim 4 recites:

A subscriber system for inserting unscheduled advertisements into at least one channel of media signals, the system comprising:

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an ad insertion device configured to determine an order in which the unscheduled advertisements are to be inserted into the at least one channel and insert the unscheduled advertisements into the at least one channel according to the order; and

a watchdog module coupled to the ad insertion device, the watchdog module configured to detect a change in current program content being displayed on the at least one channel and output results of the detection to the ad insertion device, such that the ad insertion device modifies the order in which the unscheduled advertisements are to be inserted according to program content displayed as a result of the detected change.

With respect to independent claim 90, the claimed subject matter relates to a method of presenting targeted advertisements to a subscriber viewing current program content on a display device (see for example, Figs. 1 and 2, and page 4, line 1 – page 5, line 15, of the specification). A queue having unscheduled targeted advertisements to be presented to the subscriber is generated (see, for example, Fig. 3 and page 9, lines 15 – 21; page 18, line 7 – page 19, line 10; and page 29, lines 10 – 23, of the specification), such that the queue indicates the order in which the advertisements are to be presented (see, for example, page 11, lines 9 – 19; and page 18, line 7 – page 19 of the specification). An avail, or advertisement space, is detected or indicated in the program stream (see, for example, page 8, line 18 – page 9, line 2; page 12, lines 2 – 19; and page 17, lines 5 – 14 of the specification). The targeted advertisements are presented to the subscriber in the detected advertisement space, or avail, in accordance with the order specified by the queue (see, for example, Fig. 4 and page 11, lines 1 – 19; page 13, lines 8 – 21; and page 17, lines 5 – 22 of the specification). Changes in viewing parameters, including program content currently being displayed to the subscriber are detected (see, for example, page 9, line 22 – page 10, line 5; page 16, lines 6 – 8; and page 19, line 4 – page 21, line 5 of the specification). The queue is reordered according to program content displayed as a result of the detected change in viewing parameters (see, for

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example, page 10, lines 13 – 24; page 19, lines 4 – 20; page 20, lines 4 – 13; and page 29, lines 10 – 23, of the specification).

Independent claim 90 recites:

A method of presenting targeted advertisements to a subscriber viewing current program content on a display device, the method comprising:

- (a) generating a queue having unscheduled targeted advertisements to be presented to the subscriber, the queue indicating an order in which the advertisements are to be presented;
- (b) detecting an advertisement space associated with the current program content;
- (c) presenting the targeted advertisements to the subscriber in the detected advertisement space in accordance with the order;
- (d) detecting a change in current program content being displayed to the subscriber; and
- (e) reordering the queue according to program content displayed as a result of the change detected in step (d).--

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REMARKS

This paper is being filed in response to the Notice of Non-Compliant Appeal Brief ("Notice"). The Notice contends that Applicant's Appeal Brief, filed on January 19, 2007, does not fully comply with the requirements for the contents of an Appeal Brief set forth in 37 C.F.R. § 41.37(c). In particular, the Notice points out that the Appeal Brief does not contain a concise explanation of the subject matter of each independent claim, in that, "[t]he independent claims 4 and 90 should be clearly provided and the claims should be explicitly mentioned or referred to in the Summary section."

Applicant has submitted herewith a Replacement Section (E) to the Appeal Brief ("Summary of Claimed Subject Matter"), in accordance with MPEP § 1205.03. Thus, Applicant has not re-submitted the Appeal Brief in its entirety. Applicant believes that the Replacement Section (E) addresses all of the concerns raised in the Notice, including a concise explanation of the subject matter that explicitly mentions the independent claims. Accordingly, Applicant respectfully requests entry of the Replacement Section (E) submitted herewith and that the Appeal Brief submitted on January 19, 2007, be amended in accordance therewith.

In view of the foregoing, Applicant respectfully submits that the alleged deficiencies identified in the Notice have been corrected and that Appeal Brief as amended herein is in compliance with the requirements set forth in 37 C.F.R. §41.37(c). Applicant respectfully requests that the Appeal Brief be passed to the Board for reversal of the Examiner's rejections of claims 4-6, 55, 56, 59, 60, 75, 78, 79, 90 and 91 and remand of this application for issue.

Respectfully submitted,

Date: 4/25/07

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